

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v-

No. 03-CR-0595-LTS

No. 19-CV-9131-LTS

AMBIORIX FRIAS,

Defendant.

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ORDER

The Court has received and reviewed the parties' submissions regarding the effect of the Supreme Court's decision in United States v. Davis, 139 S. Ct. 2319 (2019), on Defendant Ambiorix Frias's conviction on Count Two of the Indictment labelled S1 03-CR-595, which charged him under 18 U.S.C. § 924(c)(1)(A)(iii) with discharging a firearm during a crime of violence (the conspiracy to commit Hobbs Act robbery charged in Count One of the Indictment). The Court agrees with the parties that vacatur of Defendant's § 924(c) conviction is appropriate and, therefore, grants Defendant's motion to vacate that conviction pursuant to 28 U.S.C. § 2255 (docket entry no. 53). Defendant's conviction on Count Two of the Indictment labelled S1 03-CR-595 and the judgment entered on April 20, 2005 (docket entry no. 39), are hereby vacated. The Court will resentence Mr. Frias on Count One and enter an amended judgment.

Mr. Frias's motion for nunc pro tunc designation is denied as moot.

This Order resolves docket entry nos. 52 and 53 in 03-CR-595. The Clerk of Court is respectfully directed to close case no. 19-CV-9131.

SO ORDERED.

Dated: New York, New York
February 20, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge